

Appl. No. 09/730,333  
Atty Docket No. 8356  
Response dated June 16, 2004  
Reply to Office Action dated March 17, 2004

### REMARKS

Claims 1-31 are now in the case.

Applicant has amended independent claims 1 and 22 to clarify the meaning of the term "theme." Support for this amendment is found, at least, on page 14, lines 25-28 of Applicants' specification.

### Response to the Office Action

#### The Rejection under 35 U.S.C. 103 over Spector

Claims 1-31 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S. Patent 4,629,604). Applicants respectfully traverse this rejection. The reference does not establish a *prima facie* case of obviousness since it does not teach or suggest all of Applicants' claim limitations. Regarding Applicants' independent claims 1 and 22, Spector does not suggest a method wherein at least half of the scents share a common theme derived from, supported by, or based on only the scents in said multiple scent emitting article, rather than events taking place simultaneously in some other media. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

Spector does not teach or suggest using scents that share a common theme as described by Applicants. Independent claims 1 and 22, as amended, require that at least half of the scents on the multiple scent emitting article share a common theme derived from, supported by, or based on only the scents in the multiple scent emitting article, rather than events taking place simultaneously in some other media. Spector, on the other hand, discloses an aroma device using scents that coordinate with another media source such as a movie or TV show (See Col. 4, line 65-Col. 5, line 2). Spector does disclose the option of using his device "without a visual presentation" (Col. 5, lines 49-61). However, Spector makes no suggestion regarding the selection of scents in such a situation. Applicants' independent claims 1 and 22 clearly require that at least half of the scents share a common theme derived from, supported by, or based on only the scents in the multiple scent emitting article, rather than events taking place simultaneously in some other media. Spector's disclosure makes no reference to such a method of scent selection. Therefore, Spector does not establish a *prima facie* case of obviousness since he doesn't disclose an element of Applicants' claimed invention (see MPEP 2143.03).

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Spector also does not establish a *prima facie* case of obviousness since he doesn't disclose an element of Applicants' independent claim 14. Specifically, Spector doesn't disclose that at least half the scents are related to each other and are selected from the specific groups of scents identified in Applicants' claim 14. As discussed above, Spector makes no suggestion regarding the selection of scents when they are not coordinated with a visual presentation like a movie or television broadcast.

Since Spector does not teach or suggest any of the above-identified elements in his patent, a *prima facie* case of obviousness has not been established. As a result, Applicants contend that their claimed method is novel and unobvious and that the rejection under 35 U.S.C. 103(a) should be withdrawn.

Double Patenting Rejection

Claims 1-31 have been provisionally rejected under the doctrine of double patenting as being unpatentable over claims 1-60 of copending Application No. 09/730,261.

Applicants respectfully submit that this rejection is premature. Since neither the present application nor 09/730,261 has allowed claims, a determination as to the obviousness of their patented claims cannot be made. Applicants request deferral of this issue until one of the applications has allowed claims.

It is submitted that Claims 1-31 are in condition for allowance. Early and favorable action on all claims is therefore requested.

If the next action is other than to allow the claims, the favor of a telephonic interview is requested with the undersigned representative.

Respectfully submitted,  
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